

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

| | | |
|---------------------------|---|----------------------------|
| United States of America, |) | |
| |) | |
| Plaintiff, |) | ORDER OF DETENTION PENDING |
| |) | TRIAL |
| vs. |) | Case No. 1:17-mj-021 |
| |) | |
| Michael Markus, |) | |
| |) | |
| Defendant. |) | |

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), I conclude that the following facts require the detention of the defendant.

PART I – FINDINGS AND CONCLUSIONS

☐ **Alternative A** – The Court finds:

- (1) There is probable cause to believe that defendant has committed an offense listed in 18 U.S.C. § 3142(e)(3), or
- (2) Defendant is charged with an offense listed in 18 U.S.C. § 3142(f), and has been convicted of an offense described in 18 U.S.C. § 3142(e)(2); and
- (3) Defendant has not rebutted the presumption that no condition or combination of conditions will reasonably assure the defendant's appearance and the safety of the community.

☒ **Alternative B** – The Court finds one or more of the following:

- ☒ (1) The Government has proved by preponderance of the evidence that no condition or combination of conditions will reasonably assure defendant's appearance.
- ☒ (2) The Government has proved by clear and convincing evidence that no condition or combination of conditions will reasonably ensure the safety of other persons or the community.
- ☐ (3) The Government has proved by a preponderance of the evidence that there is a serious risk that defendant will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror.

☐ **Alternative C** – The Court finds one of the following:

- ☐ (1) Defendant does not contest detention at this time.
- ☐ (2) Defendant is not eligible for release at this time.

PART II – WRITTEN STATEMENT OF REASONS FOR DETENTION

The court concludes that there are no conditions short of a residential facility placement that it can impose to reasonably ensure defendant's appearance for future proceedings and to ensure the safety of others. The court reaches this conclusion for the reasons articulated on the record, which included the nature of the offenses charged, the strength of the Government's case, and evidence establishing probable cause to believe that defendant engaged in criminal conduct while on release pending trial on state charges and in violation of a state court order. Defendant shall be placed on a waiting list for a residential facility placement. The court shall release defendant by separate order to a residential facility once space becomes available.

PART III – DIRECTIONS REGARDING DETENTION

Defendant is committed to the custody of the Attorney General or designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver defendant to the United States marshal for the purpose of an appearance in connection with court proceedings.

Date: 1/31/2017

_____/s/ Charles S. Miller, Jr.
United States Magistrate Judge